

Customer No. 24498
Attorney Docket No. PU030107
Final Office Action Date: October 10, 2007
Appeal Brief Filed: April 3, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: BROWN, Larry Cecil, et al.

Examiner: HENEGHAN, Matthew E.

Serial No: 10/602,754

Group Art Unit: 2139

Filed: June 24, 2003

Docket: PU030107

For: REMOTE ACCESS CONTROL FEATURE FOR LIMITING ACCESS TO
CONFIGURATION FILE COMPONENTS

Mail Stop Appeal Brief-Patents
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Applicants provide this Reply Brief in response to the Examiner's Answer mailed June 18, 2008.

CERTIFICATE OF TRANSMISSION

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B1. Because McMullan fails to disclose the features of remotely accessing and modifying user-devices to designate information stored on the devices and preventing a user from accessing the designated service provider accessible information, claim 10 is patentable over McMullan.

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1. Status of Claims

Claims 1-19 are pending, stand rejected and are under appeal.

2. Grounds of Rejection to be Reviewed on Appeal

Claims 1-8, 10 and 12-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by McMullan, Jr., et al. (U.S. Patent No. 5,654,746) (hereinafter 'McMullan'). In addition, claims 9 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McMullan. The preceding rejections are presented for review in this Appeal.

Regarding the grouping of the claims, claims 2-9 stand or fall with claim 1 and claims 11-19 stand or fall with claim 10, due to their respective dependencies.

3. Argument

A. Whether Claim 1 Is Anticipated Under 35 U.S.C. §102(b) by McMullan

A1. Claim 1 is patentable over McMullan, as McMullan fails to disclose the feature of remotely designating service-provider accessible information that is stored on an access device to prevent a user from accessing the information.

Because McMullan does not anticipate the feature of remotely designating service-provider accessible information that is stored on an access device to prevent a user from accessing the information, claim 1 is patentably distinct from McMullan. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single or prior art reference" (MPEP §2131, quoting Verdegaal Bros. v. Union Oil Co. of California, 814

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F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). The elements of claim 1 include, inter alia:

a service provider selectively accessible via a network by a plurality of end users each having an access device for accessing the network; and
a control mechanism disposed at a location of the service provider which accesses and modifies stored information on each access device of the end users to designate service provider-accessible portions of the information to prevent access thereof by the end users.

As discussed in the Appeal Brief, in accordance with aspects of the present principles, a service provider may remotely access and modify a stored configuration file at a user-access device to designate portions of the information to be “service-provider access only” and thereby prevent the user from accessing the information (see, e.g., Specification p. 4, line 27 to p. 5, line 6). Despite the Examiner’s assertions otherwise, McMullan fails to describe at least the element of remotely designating service provider accessible portions of information that is stored on an access device to prevent access thereof by end users.

In his Answer, the Examiner states that McMullan’s discussion of disabling an adapter and McMullan’s discussion of “keys” and “passwords” constitute designation of service provider accessible data (see, e.g., Examiner’s Answer, p. 4, line 21 to p. 5, line 4), citing the following section of McMullan:

Another addressed transaction per FIG. 8 is the adapter control transaction which can disable a particular adapter, for example, for non-payment of subscriber bills and the like. The adapter control transaction further may be optionally utilized to change security keys, reset the adapter or reset parental passwords from the control center.

(McMullan, Column 17, lines 51-56). Firstly, it should be noted that changing security keys and resetting parental passwords are not employed as a means for disabling an adapter. As illustrated

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in FIG. 8 of McMullan, referenced in the above-recited excerpt, saving keys and resetting parental passwords are performed after an adapter is (or is not) disabled. Secondly, changing security keys and resetting parental passwords do not constitute designation of service-provider accessible information to prevent a user from accessing the information.

With regard to changing security keys, McMullan describes "keys" only in relation to encryption keys (see, e.g., McMullan, column 8, lines 30-40). Specifically, McMullan describes periodically transmitting keys to enable a game adapter to decrypt game information (see, e.g., McMullan, column 8, lines 30-40). As is well-known in the art, encryption keys and control words in conventional encryption schemes are frequently changed to prevent unauthorized access in the event that the keys are compromised. Rather than preventing user-access of downloaded information, the encryption keys are changed on a user's device to enable user-access by providing a user's device with a means to decrypt information. Furthermore, McMullan nowhere describes that the key information itself is ever accessible by the user. Thus, changing the keys does not in any way constitute designation of information to prevent user-access of the information.

Concerning resetting of parental passwords, McMullan merely describes erasing parental passwords. As illustrated in FIG. 8, if a parental password is reset, it is set to zero, which is consistent with other uses of the term "reset" by McMullan for erasing data (see, e.g., McMullan, column 17, lines 2-4). Thus, resetting a parental password removes the password altogether, thereby enabling user-access of information, rather than designating the information to prevent user-access thereof. Accordingly, McMullan fails to disclose at least the feature of designating service provider-accessible portions of information that is stored on an access device to prevent

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access thereof by end users.

With respect to the Examiner's assertion that "label[ing]" of information is not claimed (see, e.g., Examiner's Answer, p. 5, lines 11-12), the Applicant respectfully submits that the claim does recite designation of information, which means to mark, point out, indicate, denote, signify, specify . . . information. This meaning is consistent with the meaning of the term used in the Specification (see, e.g., Specification p. 4, line 27 to p. 5, line 6). As discussed herein and in the Appeal Brief, McMullan nowhere discloses or remotely suggests marking, pointing out, indicating, denoting, signifying or specifying information to prevent access thereof by end users. Accordingly, claim 1 is patentable over McMullan for at least the reasons discussed above. In addition, claims 2-9 are also patentable over McMullan due at least to their dependencies on claim 1. Therefore, withdrawal of the rejection of claims 1-9 is respectfully requested.

B. Whether Claim 10 Is Anticipated Under 35 U.S.C. §102(b) by McMullan

B1. Because McMullan fails to disclose the features of remotely accessing and modifying user devices to designate information stored on the devices and preventing a user from accessing the designated service provider accessible information, claim 10 is patentable over McMullan.

Claim 10 is patentable over McMullan, as McMullan does not anticipate the features of remotely designating information stored on access devices and preventing a user from accessing the designated service provider accessible information. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single or prior art reference" (MPEP §2131, quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). The elements of claim 10 include, inter alia:

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providing a control mechanism for remotely accessing and modifying end user network access devices;

remotely accessing and modifying the end user network devices to designate service provider-accessible information stored on the access devices; and

preventing the end user from accessing the designated service provider-accessible information on the end user's access device.

As discussed above with respect to claim 1, McMullan fails to disclose at least the feature of remotely designating service provider accessible portions of information that is stored on an access device to prevent access thereof by end users. Accordingly, McMullan likewise does not disclose the features of remotely accessing and modifying user-devices to designate information stored on the devices and preventing a user from accessing the designated service provider accessible information, as recited in claim 10. Thus, claim 10 is patentable over McMullan for at least the reasons discussed above. Moreover, claims 11-19 are also patentable over McMullan due at least to their dependencies on claim 10. Withdrawal of the rejection of claims 10-19 is respectfully requested.

C. Conclusion

At least the above-identified limitations of the pending claims are not disclosed by the teachings of McMullan. Accordingly, it is respectfully requested that the Board reverse the rejection of claims 1-19.

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It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's Deposit Account No. 07-0832.

Respectfully submitted,

Dated: 8/15/08

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